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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY
PRODUCTS LIABILITY LITIGATION

MDL No. 3047

Case No. 4:22-03047-YGR

This Document Relates to:

Judge: Hon. Yvonne Gonzalez Rogers

ALL ACTIONS

Magistrate Judge: Hon. Peter H. Kang

PROPOSED AGENDA FOR DECEMBER 14, 2023, HYBRID DISCOVERY HEARING

EXHIBIT B

EXHIBIT B

[Submitting Counsel on Signature Page]

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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**UPDATE REGARDING THE PARTIES'
AGENDA AND JOINT STATEMENT FOR
DECEMBER 13, 2023, CASE
MANAGEMENT CONFERENCE**

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

The Parties respectfully submit the following update and joint statement in advance of the December 13, 2023 Case Management Conference ("CMC").

I. Status of Individual Plaintiffs' Personal Injury Claims

The Parties have resolved their dispute regarding Plaintiffs' proposal to dismiss without prejudice certain claims from their Master Complaint.

Plaintiffs have proposed withdrawing Claims 6 (Negligent Undertaking), 11 (Violations of 18 U.S.C. §§ 1595 and 1591),¹ 13 (Violations of 18 U.S.C. §§ 2252A(f) and 1466A), and 15 (Violations of 18 U.S.C. §§ 2258B and 2258A) as to all Defendants, and Claims 12 (Violations of 18 U.S.C. §§ 2255 and 2252) and 14 (Violations of 18 U.S.C. §§ 2255 and 2252A(5)(b)) as to all

¹ Plaintiffs' proposal to dismiss without prejudice Count 11 was inadvertently omitted from their joint statement submitted on December 6.

Defendants other than the Meta Defendants, provided that (a) this withdrawal is without prejudice; and (b) plaintiffs who have alleged these claims in their short form complaints are provided a reasonable opportunity to amend their complaints to continue asserting these counts should they wish to do so.

Defendants have agreed to consent to the dismissal of these claims from the Master Complaint without prejudice, in exchange for Plaintiffs' agreement to stipulate (subject to Court approval) that Defendants may split their "Track 2" motion to dismiss, currently due next Monday, December 18, into two motions to dismiss.²

The first motion to dismiss, which would still be due next Monday, December 18, would cover the personal injury Plaintiffs' claims for negligence (Claim 5), loss of consortium (Claim 16), survival (Claim 17), and wrongful death (Claim 18), and Claims 12 and 14 against the Meta Defendants only.

The second motion to dismiss would be due on January 12, 2024 and would address the claims voluntarily dismissed from the Master Complaint to the extent they are reasserted in any amended short form complaints on or before January 2, 2024. The briefing schedule on the second motion to dismiss would otherwise follow the current schedule for Defendants' "Track 2" motion to dismiss, i.e., Plaintiffs' opposition would be due February 5, 2024, and Defendants' reply would be due February 26, 2024.

The Parties have agreed (subject to Court approval) to split the pages currently allocated for "Track 2" briefing (60/60/30) between these two motions to dismiss as follows: 35/35/17.5 for the motion to dismiss due December 18; and 25/25/12.5 for the motion to dismiss due January 12.

The Parties intend to file in advance of the December 13 CMC a proposed stipulated order setting forth this agreement.

II. Outstanding Coordination Order Disputes

At a case management conference held last Thursday, December 7 in the JCCP, the JCCP

² The Court has organized briefing into "four tracks: 1) the state Attorneys General complaint, as well as Claims 7, 8 and 9 of the individual plaintiffs' Master Amended Complaint ("MAC"); 2) the remaining MAC claims, with the exception of the individual plaintiffs' negligence *per se* claim; 3) the forthcoming school district plaintiffs' master complaint; and 4) claims asserted against defendant Mark Zuckerberg in his individual capacity." ECF No. 450.

1 Court indicated that it had discussed the status of Defendant discovery with this Court, and
 2 worked out an allocation of responsibilities, pursuant to which this Court will “primarily handle
 3 discovery” and the JCCP Court will focus “on the plaintiff-specific issues.” *See* 12/7/23 JCCP
 4 CMC Tr. 7:18-19, 13:22-25. In light of that allocation, subject to this Court’s guidance, the
 5 Parties agree that their Coordination Order proposals no longer need to be addressed at the
 6 December 13 CMC, and are hereby withdrawn, without prejudice to renewing those order(s) or
 7 modified order(s) down the road. The Parties will meet and confer as necessary and appropriate
 8 to coordinate these proceedings with related cases pending in state courts, and to the extent
 9 needed will return to this Court for guidance on such coordination as appropriate.

10 **IV. CSAM Order**

11 On December 12, 2023, Magistrate Judge Peter H. Kang entered the Parties’ proposed
 12 Order Governing Preservation of CSAM.

13 **V. Plaintiff Fact Sheet and Implementation Order**

14 The JCCP Court has resolved the parties’ one outstanding dispute on the proposed User
 15 Account Information Order, and the parties have now submitted a final proposed User Account
 16 Information Order, PFS implementation order, and related forms for entry by the JCCP Court.
 17 Subject to guidance from this Court, the MDL Parties intend to submit those proposed orders and
 18 forms for entry by this Court (conformed as appropriate for the MDL) following entry by the
 19 JCCP Court.

20
 21 DATED: December 12, 2023

22 Respectfully submitted,

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ATTESTATION

I, Previn Warren, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

DATED: December 12, 2023

/s/ Previn Warren

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